IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18739 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

CHULA JAGIRDAR (CHAULA KIRAN CHAVDA) - Petitioner(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

==========

Appearance :
MR GM JOSHI for Petitioner(s) : 1,
MR KL PANDYA, AGP for Respondent(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 04/12/2007

ORAL JUDGMENT

1. Rule. Mr. Pandya, learned AGP waives service of Rule for respondent State. With the consent of

the learned advocate appearing for both the sides, the matter is finally heard.

2. The petitioner has preferred the petition for challenging the legality and validity of the order dated 15.03.2007, passed by the respondent authority, whereby the warning has been given to the petitioner to ensure that in future, such lapses is not repeated.

3. Heard Mr. Joshi for the petitioner and Mr. Pandya, learned AGP for the respondents.

4. It is an admitted position that the opportunity of hearing has not been given before passing the impugned order of warning, which is under challenge in the present petition.

5. Under these circumstances, the order cannot be sustained since the same is in breach of the principles of natural justice. However, at the same time, the liberty deserves to be reserved to the authority to seek explanation of the petitioner and to pass a fresh order after giving opportunity of hearing to the petitioner.

6. Under the above circumstances, the impugned order dated 15.03.2007 is quashed and set aside on the ground of breach of principles of natural justice and it is further observed that it would be open to the respondent authority to issue a formal show-cause notice and seek the

explanation of the petitioner to pass a fresh order in accordance with law. The petition is allowed to the aforesaid extent. Rule made absolute accordingly with no order as to costs. D.S.

(JAYANT PATEL, J.)

*bjoy